STATE OF MICHIGAN

COURT OF APPEALS

SAMIEA SNORTON, by her Next Friend COBRA JAMISON,

Plaintiff-Appellant,

v

MOUNT CLEMENS SCHOOL DISTRICT, SHARON GRYZENIA, LINDA KNOPP, and KRISTIN MIYAMOTO,

Defendants-Appellee,

and

MAURICE LLOYD and KARIMA LLOYD,

Defendants.

UNPUBLISHED
March 28, 2006

No. 257615
Macomb Circuit Court
LC No. 2003-002960-NI

JASMINE MASSINGILL, by her Next Friend ANGELA MASSINGILL, and ERICA BENNETT, by her Next Friend CRISTAL BENNETT,

Plaintiffs-Appellants,

v

MOUNT CLEMENS SCHOOL DISTRICT, SHARON GRYZENIA, LINDA KNOPP, and KRISTIN MIYAMOTO,

Defendants-Appellees,

and

MAURICE LLOYD and KARIMA LLOYD,

Defendants.

No. 257616
Macomb Circuit Court
LC No. 2003-003215-NI

Before: Schuette, P.J., and Murray and Donofrio, JJ.

PER CURIAM.

Plaintiffs, through their next friends, appeal as of right from the circuit court order granting summary disposition to defendants Mt. Clemens School District, teachers Kristin Miyamoto and Linda Knopp, and elementary school principal Sharon Gryzenia based on governmental immunity. MCR 2.116(C)(7). We affirm.

I. FACTS

These consolidated cases arise from alleged physical and sexual assaults of the three second-grade plaintiffs by another second-grade boy, Maurice Lloyd, in the students' classroom at Alexander Macomb Elementary School in Mt. Clemens. The assaults allegedly occurred in the classroom of defendant Kristin Miyamoto, a second-grade teacher, and in the school gymnasium, which was under the supervision of physical education teacher, Linda Knopp. Plaintiffs brought this action against the Mt. Clemens School District, defendants Miyamoto and Knopp, and the school principal, Sharon Gryzenia, alleging that the individual defendants were grossly negligent for failing to properly supervise and discipline Maurice Lloyd. The trial court granted defendants' motion for summary disposition based on governmental immunity, concluding that there was no question of fact that defendants Knopp and Gryzenia were not grossly negligent and that, although there was a question of fact whether defendant Miyamoto was grossly negligent, there was no question of fact that the conduct of any of the defendants was not the proximate cause of plaintiffs' injuries.

II. STANDARD OF REVIEW

This Court reviews the trial court's grant or denial of summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998).

III. ANALYSIS

Subject to certain exceptions not applicable here, "a governmental agency is immune from tort liability if the governmental agency is engaged in the exercise or discharge of a governmental function." MCL 691.1407(1). Additionally, an employee of a governmental agency is immune from tort liability if the employee reasonably believes he or she is acting within the scope of his or her authority, the governmental agency is engaged in the exercise or discharge of a governmental function, and the employee's conduct does not amount to gross negligence that is "the proximate cause" of the injury or damage. MCL 691.1407(2)(a) – (c).

It is undisputed that the operation of a school is a governmental function, *Stringwell v Ann Arbor Pub Schools*, 262 Mich App 709, 712; 686 NW2d 825 (2004), and the question whether defendants Gryzenia, Knopp, and Miyamoto were acting within the scope of their authority is not at issue. Rather, the issue presented here is whether plaintiffs can demonstrate both that defendants Gryzenia, Knopp, and Miyamoto were grossly negligent, and that their gross negligence was the proximate cause of plaintiffs' injuries.

As used in MCL 691.1407(2)(c), the phrase "the proximate cause" is not synonymous with "a proximate cause." *Curtis v City of Flint*, 253 Mich App 555, 563; 655 NW2d 791 (2002). Rather, "to impose liability on a governmental employee for gross negligence, the employee's conduct must be 'the one most immediate, efficient, and direct cause preceding an injury.'" *Id.* at 563 (citations omitted).

Here, regardless whether defendants were grossly negligent, "the one most immediate, efficient, and direct cause" preceding plaintiffs' injuries was the assault by Maurice Lloyd, not the conduct of defendants. *Robinson v Detroit*, 462 Mich 439, 469; 613 NW2d 307 (2000); *Miller v Lord*, 262 Mich App 640, 644; 686 NW2d 800 (2004). Accordingly, the trial court did not err in granting defendants' motion for summary disposition. In light of our decision, it is unnecessary to consider the question of gross negligence.

Affirmed

/s/ Bill Schuette
/s/ Christopher M. Murray
/s/ Pat M. Donofrio